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Please respond to: Trevose

July 31, 2019

Sent Via Email Only
(mzeppos@pa.gov)

Appeals Officer Magdalene Zeppos, Esquire
Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

Re: Martinez v. Bensalem Township Police Department
Pennsylvania Office of Open Records Appeal; Docket #2019-1209

Dear Appeals Officer Zeppos:

Please accept this correspondence from Bensalem Township (hereinafter "Township") in response to the Right to Know ("RTK") appeal filed by Mr. Freddy Martinez on July 22, 2019.

On or about July 3, 2019, the Township received Mr. Martinez's RTK request concerning materials from a presentation made by Deputy Director of Public Safety William McVey at a conference of the International Association of Chiefs of Police on May 20, 2019. On or about July 4, 2019 the Township denied the RTK request as the requested presentation materials were created and are owned by Motorola Solutions and the materials fall within the scope of Section 708 (b)(2) of the Right to Know law.

July 25, 2019

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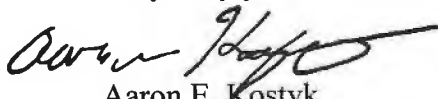
Mr. Martinez's appeal does not assert that the requested materials were created by the Township. The PowerPoint which was presented was created by Motorola Solutions for the express purpose of educating fellow law enforcement professionals on how to implement effective security measures. The presentation also incorporated information and examples that were specific to how the Township protects its students and employees located within the Township.

In this case a reading of the plain language of the exception leads to only one conclusion; that the specific details of how law enforcement professionals in Bensalem Township protect their schools and students is (1) related to law enforcement or public safety activity; and (2) the disclosure of the records would be reasonably likely to threaten public safety or a public protection activity. In *George v. Mt. Lebanon Police Department*, OOR Dkt. AP 2010 0703, the Office of Open Records determined that departmental policies are not subject to disclosure when disclosing those policies would allow individuals to circumvent them. That is exactly the types of information and records that Mr. Martinez is requesting in the present case. In the alternative to the above, we would request an in camera review of the records.

The additional requested materials, specifically the "full notes", are not within the Township's possession if they exist at all and the Township accordingly has fulfilled its obligation to comply with the request.

For the reasons outlined above Mr. Martinez's requests under the Right to Know law should be denied.

Very truly yours,



Aaron E. Kostyk

Enclosure

cc: Mr. Freddy Martinez (via e-mail 76547-99068087@requests.muckrock.com)



BENSALEM TOWNSHIP POLICE DEPARTMENT

2400 Byberry Road • Bensalem, PA 19020 • (215) 633-3700 • Fax (215) 633-3656

Frederick A. Harran
Director of Public Safety



AFFIDAVIT

I, Lieutenant Keith Christie, do hereby depose and state, sworn according to law as follows:

1. I serve as Lieutenant of the Bensalem Township Police Department.
2. On July 3, 2019, the Township received Mr. Freddy Martinez's Right to Know Request seeking materials related to a May 20, 2019, presentation at a conference of the International Association of Police Chiefs and specifically requested "[t]he slides from the presentation from the talk given by Deputy Chief William McVey on May 20, 2019 at the IACP Tech Conference. I am also seeking the presentation with the full notes that may accompany the slides."
3. After reviewing the Right to Know Request, the Township sent Mr., Martinez a correspondence denying his Right to Know request on July 4, 2019, pursuant to Section 708 (b)(2) of the Right to Know Law and the fact that the requested materials are not owned by the Township.
4. In regards to Mr. Martinez's request, I reviewed the responsive documents and determined that their disclosure would be reasonably likely to result in a substantial and demonstrable risk of physical harm for the reasons outlined below. Additionally, the presentation materials which were requested are the property of Motorola Solutions, not Bensalem Township.
5. The requested PowerPoint presentation from the May 20, 2019, conference contains specific and detailed information regarding the security protocols and methods of protection for a specific school within the Bensalem School District ("District").
6. These safety protocols serve to protect students and if the information were to become public the methodologies used to protect schools within the District would be substantially weakened to the point of being nearly completely ineffective.
7. The presentation was given at the annual International Association of Chiefs of Police ("IACP") meeting, which is open to members, qualified non-members, and exhibitors. Recording and dissemination of the presented materials was expressly prohibited and the intended audience was law enforcement professionals.
8. The requested presentation materials were created by Motorola Solutions for the express purpose of presenting the information to other law enforcement professionals at a professional conference.

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Frederick A. Harran
Director of Public Safety



9. Regarding Mr. Martinez's request for the "full notes" of the presentation, the only presentation materials within the Township possession and control are the PowerPoint slides which are not the property of the Township. As such, the PowerPoint is the only responsive document.

10. The way that the District implements security measures in its schools is clearly not intended for public dissemination.

I verify that the statements made in the foregoing Affidavit are true and correct to the best of my information, knowledge and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

LT. Keith Christie #22070

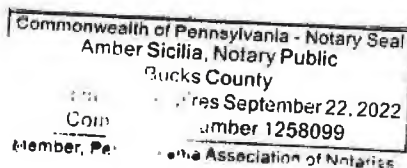
Lieutenant Keith Christie #22070

Dated: 7/30/19

Sworn to and subscribed before
me this 30th day of July, 2019.

Amber Sicilia

Notary Public
My Commission Expires:



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